

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION TO  
APPROVE AN AGREEMENT ALLOCATING  
SERVICE TERRITORY BETWEEN AVISTA  
CORPORATION DBA AVISTA UTILITIES AND  
KOOTENAI ELECTRIC COOPERATIVE, INC.  
PURSUANT TO THE IDAHO ELECTRIC  
SUPPLIER STABILIZATION ACT.**

)  
) **CASE NO. AVU-E-05-2**  
)  
) **NOTICE OF APPLICATION**  
)  
) **NOTICE OF MODIFIED**  
) **PROCEDURE**  
)  
) **ORDER NO. 29707**

On January 27, 2005, Avista Corporation dba Avista Utilities filed an Application seeking the Commission’s approval of a contract between Avista and Kootenai Electric Cooperative, Inc. to allocate service territories and future consumers. The parties’ “Agreement Allocating Territory” is dated November 28, 2004. The Agreement was executed pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA) and specifically *Idaho Code* § 61-333(1). The parties request that their Application be processed under Modified Procedure.

**NOTICE OF APPLICATION**

YOU ARE HEREBY NOTIFIED that Avista and Kootenai propose to allocate service territory in the Stateline Business Park located in Post Falls, Idaho. Generally, the boundaries for the business park are: Seltice Way on the north side; the Idaho-Washington border (the “Stateline”) on the west; Interstate 90 on the south; and the eastern boundary runs between Interstate 90 on the south side and Jacklin Road on the north side. The Business Park is roughly divided in half by Baugh Way-Road B. The parties have agreed that Avista and Kootenai will serve the western and eastern portions of the Business Park, respectively. Exhibit C to the Agreement illustrates the exact boundaries in greater detail.

YOU ARE FURTHER NOTIFIED that both parties have existing facilities within the Business Park. Avista and Kootenai are willing and able to supply electric service to consumers within their respective allocated territories. The parties assert that the allocation of service territory will avoid duplication of facilities, avoid disputes between the parties, and provide consumers with the best possible service. The Agreement is also endorsed by the two developers

of the Business Park: Greenstone Corporation and Stateline Business Park, LLC. The developers agreed to comply and be bound by the Agreement.

YOU ARE FURTHER NOTIFIED that *Idaho Code* § 61-333(1) provides that electric suppliers may contract for the purpose of “allocating territories, consumers, and future consumers...and designating which territories and consumers are to be served by which contracting electric supplier.” Under the ESSA, both Avista and Kootenai are defined as electric suppliers. *Idaho Code* § 61-332A(4). After notice and opportunity for hearing, the Commission may approve agreements allocating service territories and customers between electric suppliers only upon finding that the allocation is in conformance with the purposes of the ESSA. *Idaho Code* § 61-333A(1). The purposes of the ESSA are to: discourage duplication of facilities; prohibit the “pirating” of consumers; stabilize service territories and consumers; and promote harmony between electric suppliers. *Idaho Code* § 61-332(2)

#### **NOTICE OF MODIFIED PROCEDURE**

YOU ARE FURTHER NOTIFIED that *Idaho Code* § 61-333(1) requires the Commission to review territory allocation agreements between public utilities and electric cooperatives. Pursuant to this statute, the Commission must determine whether the allocation of service territory and future consumers is in conformance with the provisions and the purposes of the ESSA.

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission’s Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application or the Agreement may file a written comment in support or opposition with the Commission within twenty-one (21) days from the service date of this Notice. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this

Application may be mailed to the Commission and the Applicants at the addresses reflected below:

COMMISSION SECRETARY  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST  
BOISE, ID 83702-5983

KELLY NORWOOD  
V.P. – STATE & FED. REGULATION  
SUSAN BALDWIN, REGULATORY ANALYST  
AVISTA CORPORATION  
PO BOX 3727  
SPOKANE WA 99220-3727  
E-mail: [kelly.norwood@avistacorp.com](mailto:kelly.norwood@avistacorp.com)  
E-mail: [susan.baldwin@avistacorp.com](mailto:susan.baldwin@avistacorp.com)

ROBERT L. CRUMP, GENERAL MANAGER  
KOOTENAI COOPERATIVE, INC.  
PO BOX 278  
HAYDEN LAKE, ID 83835

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at [www.puc.idaho.gov](http://www.puc.idaho.gov). Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to the Applicants at the e-mail addresses and Kootenai's mailing address listed above.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that the Application and the Agreement allocating territory can be reviewed at the Commission's office and at the principal office of Avista Corporation, 1411 E. Mission Avenue, Spokane, Washington, during regular business hours. The parties' documents are also available for public inspection on the Commission's Website at [www.puc.idaho.gov](http://www.puc.idaho.gov) by clicking on the "File Room" icon and the "Electric Cases."

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically

Idaho Code §§ 61-333(1) and 61-334B. The Commission may enter any Order consistent with its jurisdiction.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

**ORDER**

IT IS HEREBY ORDERED that this Application be processed under Modified Procedure. Persons interested in submitting written comments regarding this matter should do so within 21 days of the service date of this Order.

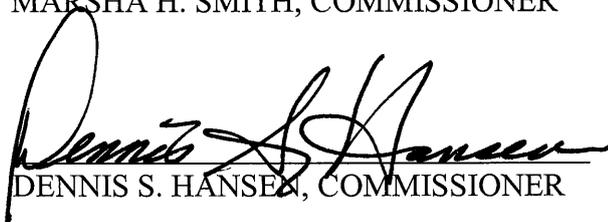
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 14<sup>th</sup> day of February 2005.



PAUL KJELLANDER, PRESIDENT

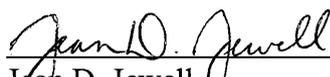


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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